IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN HINTERLONG	:	CIVIL ACTION
	:	
v.	:	
	:	
GEORGE W. HILL,	:	
SUPERINTENDENT, et al.	:	NO. 05-5514

MEMORANDUM AND ORDER

McLaughlin, J. August 8, 2006

The plaintiff, a pro se prisoner, filed this action against twenty defendants[1] affiliated with the George W. Hill Correctional Facility ("the Facility"). He claims that his rights were violated during and after an investigation into stolen medicine at the Facility. He alleges that the defendants failed to grant his requests for counsel during the investigation, changed his diet without authorization, and placed

[1] The defendants (hereinafter referred to by their correctly-spelled names, which appear here in parentheses), are George W. Hill, superintendent of the prison; Frank Green, assistant superintendent; Robert M. DiOrio, assistant superintendent; Ronald Nardillo (Nardolillo), warden; Matthew Holmes (Holm), assistant warden of security; Chad McCullogh (McCullough), major of security; Lauren Groger (Kroger), medical department; Ralph Smith, medical director; Terry Thomas (Smith), nurse; Shelly Mealo, nurse; Sharon McGlennahan (McGeehan), nurse; Beverly Parkinson, nurse; Lt. Haggans, officer; Lt. Kendall, officer; Lt. Randall Rosado, officer; Lt. Anthony Raymond, officer; Sgt. Joanne Abt, hearing officer; C/O George White, officer; Carrissa (Tillotson), Unit 10 counselor; and C/O Henry Meyers, officer. All except George White and Henry Meyers are parties to the motion to dismiss. The Court will consider the motion as to all defendants.

him in a two-person cell with two other people ("triple-celling"), in which he had to sleep on a mattress near the toilet.

The Court here decides the defendants' motion to dismiss the complaint. The Court will grant the motion in part and deny it in part. The Court will dismiss several of the defendants, and the claims based upon the alleged inadequacies in the plaintiff's disciplinary proceedings. The Court will deny the motion on the claims relating to the liquid diet and the triple-celling.

I. Facts

The facts alleged in the complaint[2] are as follows.[3]

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[2] The plaintiff filed four documents labeled as "motions" after the defendants filed their motion to dismiss. The Court denied these "motions" as moot, as they were not actually motions; rather, they were responses to the motion to dismiss. Some of these responses also include additional facts. Although Hinterlong never officially filed an amended complaint, these facts essentially amend the complaint, and the Court will consider these facts in addition to the allegations in the complaint in deciding the defendants' motion to dismiss. The Court will refer to these documents as "Pl. Resp.," preceded by their date. The Court will similarly refer to the defendants' replies as "Def. Repl.," preceded by their date.

[3] In considering the defendants' motions to dismiss, the Court must accept the allegations in the complaint as true and draw all reasonable inferences in favor of the plaintiffs. Bowley v. City of Uniontown Police Dept., 404 F.3d 783, 786 (3d Cir. 2005). Pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers." Mitchell v. Horn, 318 F.3d 523, 529 (3d Cir. 2003)(quoting Haines v. Kerner, 404 U.S. 519, 520 (1972)). The Court may dismiss the pro se

Hinterlong is an inmate at the Facility. On September 18, 2005, he was called to the Facility's intake unit and questioned about medication that was missing from the pharmacy. He and his cellmate and co-worker were interrogated and asked to submit to a urinalysis. They both complied, and were sent back to Unit 6D, where they were housed. When they returned to their cell, C/O Bates told Hinterlong to pack his belongings, and he was transferred to the segregated modification unit ("SMU"). (Compl. at p. 3, 7-8).

Once in segregation, Holm interrogated Hinterlong again. He took Hinterlong's pulse and accused him of being intoxicated. (Compl. at p. 8).

On the morning of September 19, 2005, Hinterlong was moved to the maximum security unit on Unit 10B, commonly referred to as the "hole." He spent the night there. (Compl. at p. 8).

The next morning, September 20, 2005, Holm interrogated Hinterlong for a third time. Holm said that he would take Hinterlong's information one more time, and confer with Michael Gannon, an investigator with the Facility. (Compl. at p. 8).

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complaint only if "it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" McDowell v. Delaware State Police, 88 F.3d 188, 189 (3d Cir. 1996)(quoting Haines, 404 U.S. at 520). The Court is "not, however, required to accept as true unsupported conclusions and unwarranted inferences." Schuylkill Energy Res., Inc. v. Pennsylvania Power & Light Co., 113 F.3d 405, 417 (3d Cir. 1997).

Hinterlong alleges that Holm was trying to prove his theory that Hinterlong took the missing medication and became frustrated when he was unable to do so. Holm became very angry and said that he was "tired of the bullshit" and would make Hinterlong "suffer in here." He said that he would not be coming back to talk to Hinterlong any more, and that Hinterlong would receive his charge. Hinterlong claims that, according to the Acknowledgment of Rights on his Disciplinary Report and the Correctional Facilities Inmate Handbook, he should have received his charge within twenty-four hours and had a hearing within seventy-two hours of being put in the hole. (Compl. at p. 8-9).

For the next eight days, Hinterlong was forced to sleep on a mattress on the floor of cell 10B112. Including Hinterlong, there were three people housed in the cell, although it was designed for two people. Hinterlong had no sheets or only one sheet and had to sleep near the toilet, such that urine splashed on him when the other inmates used the toilet, causing him to fight. During these eight days, Hinterlong had no hearing and was not charged with any infraction. (Compl. at p. 9-10; 1/17/06 Pl. Resp. at p. 3; 2/17/06 Pl. Resp. at p. 2-3)

After seventeen days of staying on the floor in the hole, Hinterlong was brought to a hearing in front of Sgt. Joanne Abt. He was charged with lying and stealing, on the grounds that on September 18, 2005, Lts. Haggans and Kendall found the missing

pills based on a statement made by Hinterlong. Hinterlong claims that he never made such a statement. He claims that he asked for representation at his hearing, but the proceedings were postponed. (Compl. at p. 10).

Beginning on September 20, 2005, Hinterlong received a "Dental Mechanical Soft Texture" diet,[4] consisting of four eight-ounce cups of various liquids, including iced tea, chicken broth and beef broth. He alleges that an inmate is only supposed to receive this diet if it is ordered by a doctor or dentist, and in his case it never was. He claims that proper procedures were bypassed by the administration, Ronald Nardolillo, Holm, Ralph Smith, and the head of food service in the kitchen. Hinterlong was previously on a normal diet with a minimum calorie intake of 1800, and he claims that the change was deliberately made the day after Holm threatened him, in retaliation for his silence. He claims that while he was on the liquid diet, he lost twelve pounds, and that his spirit, strength, and mental alertness

[4] Attached to the defendants' response filed on March 15, 2006 as exhibits are three diet order forms. Although the plaintiff did not provide the Court with these forms, they are central to his claims relating to the change in his diet. The United States Court of Appeals for the Third Circuit has held that although "[a]s a general matter, a district court ruling on a motion to dismiss may not consider matters extraneous to the pleadings, . . . an exception to the general rule is that a document integral to or explicitly relied upon in the complaint may be considered without converting the motion to dismiss into one for summary judgment." In re Burlington Coat Factory Secs. Litig., 114 F.3d 1410, 1426 (3d Cir. 1997)(internal quotations omitted). The Court will consider the forms.

declined. (Compl. at p. 11-12; 3/15/06 Def. Repl. Ex. A).

On September 22, 2005, Hinterlong grieved the liquid diet to Lauren Kroger and Ralph Smith. In his letter to Ralph Smith, he stated that he did not see a doctor and should not be on a liquid diet. Kroger and Smith never responded to his grievance form. He also pleaded with various nurses who distribute medication to maximum security unit 10B, including Terry Smith and Beverly Parkinson. These efforts were in vain. In the presence of another inmate, Parkinson told Hinterlong that his new diet was "punishment." (Compl. at p. 12-13; 1/17/06 Pl. Resp. at p. 4).

When the missing medication was stolen, nurses Shelley Mealo and Sharon McGeehan were present. Hinterlong wrote medical slips to both nurses, but received no response. Hinterlong alleges that Mealo, a medical runner, could have changed his diet because he made her "look like a fool," because he was alleged to have stolen medication when he was working on her shift in the medical department. (Compl. at p. 13; 2/24/06 Pl. Resp. at 3).

Hinterlong began having headaches, and these and his lack of nutrition caused him to throw up and kept him from getting out of bed. On September 26, 2005, Hinterlong told Lt. Haggans that he was starving and had an extreme headache from hunger. Haggans said that he would "look into it." The same thing happened the next day, but Haggans ignored Hinterlong's

efforts. (Compl. at p. 13-14).

On September 29, 2005, Hinterlong wrote a request for information to his unit counselor, Carrissa Tillotson, but received no response. (Compl. at p. 14).

On October 4, 2005, Lt. Randall Rosado approached Hinterlong and said that he should have approached him instead of Haggans if he wanted to "get something done." Rosado said that he had personally checked Hinterlong's food and medical charts, and that no one had authorized a change in his diet. Lt. Anthony Raymond had also checked Hinterlong's chart. When Hinterlong said that someone with authority had to have authorized the change, Rosado agreed but did not say who had done so. A diet order form requesting a "Diet for Health," or "DFH" of 2400-2600 calories was submitted for Hinterlong on October 4, 2005. (Compl. at p. 14; 2/17/06 Pl. Resp. at p. 3; 3/15/06 Def. Repl. Ex. A).

Instead of receiving his normal diet, for the next two days, he received diabetic trays. He grieved the diabetic diet on October 6, 2005. On October 8, 2005, he again began receiving liquid diet trays. Rosado was informed of this, and returned the liquid trays to the kitchen. C/O Henry Meyers was also present and aware of this incident. After that, Hinterlong began receiving diabetic trays again. It took a total of 19 days until he stopped receiving the liquid diet. Jessica Raymond, who works

for the Prison Society, also helped him get his regular diet back. (Compl. at p. 14-15; 1/17/06 Pl. Resp. at p. 4).

Hinterlong states that George W. Hill was notified of Hinterlong's diet change and disciplinary actions "since he is the superintendent of the institution." Hinterlong wrote Hill a grievance since he is the head of the institution. (2/17/06 Pl. Resp. at p. 1).

On November 17, 2005, a diet order form ordering Hinterlong to be taken off the DFH and put back on his regular diet was submitted. (3/15/06 Def. Repl. Ex. A).

II. The Claims and the Motion to Dismiss

On November 9, 2005, Hinterlong filed his complaint against twenty employees of the Facility. His claim is under 42 U.S.C. § 1983, and alleges violations of his rights under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution based upon his treatment surrounding the investigation into the missing medication. Specifically, he bases his claims on the failure to provide him with counsel at his prison disciplinary hearing, the unauthorized imposition of a liquid diet, the failure of personnel at the Facility to respond to his complaints, and the conditions of the triple-celling.

III. Analysis

A. Legal Standards

1. Personal Involvement under § 1983

"'[A] defendant in a civil rights action must have personal involvement in the alleged wrongs' to be liable." Sutton v. Rasheed, 323 F.3d 236, 249 (3d Cir. 2003)(quoting Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988)). "Personal involvement can be shown through allegations of personal direction or of actual knowledge and acquiescence. Allegations of participation or actual knowledge and acquiescence, however, must be made with appropriate particularity." Rode, 845 F.2d at 1207. For example, an adequate complaint could state time, place, and persons responsible. Id. at 1207-08 (describing Boykins v. Ambridge Area Sch. Dist., 621 F.3d 75, 80 (3d Cir. 1980)).

"[R]espondeat superior cannot form the basis of liability under 42 U.S.C. § 1983." Urrutia v. Harrisburg County Police Dep't, 91 F.3d 451, 456 (3d Cir. 1996). Rather, a supervisor may only be liable if he engaged in some "affirmative conduct . . . that played a role in the discrimination." Robinson v. City of Pittsburgh, 120 F.3d 1286, 1294 (3d Cir. 1997)(quoting Andrews v. City of Philadelphia, 895 F.2d 1469, 1478 (3d Cir. 1990)).

2. Prison Disciplinary Proceedings

Hinterlong's due process rights under the Fourteenth Amendment "are triggered by the deprivation of a legally cognizable liberty interest," which "occurs when the prison 'imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.'" Mitchell v. Horn, 318 F.3d 523, 531 (3d Cir. 2003)(quoting Sandin v. Conner, 515 U.S. 472, 484 (1995)). "Lesser restraints on a prisoner's freedom are deemed to fall 'within the expected [parameters] of the sentence imposed by a court of law.'" Mitchell, 318 F.3d at 531 (quoting Sandin, 515 U.S. at 485).

"Prisoners are not constitutionally entitled to a grievance procedure and the state creation of such a procedure does not create any federal constitutional rights." Wilson v. Horn, 971 F. Supp. 943, 947 (E.D. Pa. 1997), aff'd 142 F.3d 430 (3d Cir. 1998); see also Adams v. Rice, 40 F.3d 72, 75 (4th Cir. 1994); Mann v. Adams, 855 F.2d 639, 640 (9th Cir. 1988); McGuire v. Forr, 1996 U.S. Dist. LEXIS 3418 at *2 n. 1 (E.D. Pa. Mar. 21, 1996), aff'd 101 F.3d 691 (3d Cir. 1996). "Prisoners do have a constitutional right to seek redress of their grievances from the government, but that right is the right of access to the courts, and this right is not compromised by the failure of the prison to address his grievances." Wilson, 971 F. Supp. at 947. Prisoners do not have a right to counsel during prison disciplinary

proceedings, "before any adversary judicial proceedings [have] been initiated against them." United States v. Gouveia, 467 U.S. 180, 192 (1984).

In addition, "[t]he filing of charges later proven to be false is not a constitutional violation so long as the inmate is provided with due process, unless the charges were filed in retaliation for the exercise of a constitutional right. An allegation by an inmate that he was falsely accused, without more, fails to state a civil rights claim." Flanagan v. Shively, 783 F. Supp. 922, 931 (M.D. Pa. 1992), aff'd 980 F.2d 722 (3d Cir. 1992).

3. Diet Change and Triple-Celling

"To establish an Eighth Amendment violation for conditions of confinement, [the] plaintiff must show that prison conditions were dangerous, intolerable or shockingly substandard." Gerber v. Sweeney, 292 F. Supp. 2d 700, 706 (E.D. Pa. 2003)(citing Riley v. Jeffes, 777 F.2d 143, 147 (3d Cir. 1985)). An inmate claiming an Eighth Amendment violation "must allege both an objective element – that the deprivation was sufficiently serious - and a subjective element - that a prison official acted with a sufficiently culpable state of mind, i.e., deliberate indifference." Nami v. Fauver, 82 F.3d 63, 67 (3d Cir. 1996).

"[E]xtreme deprivations are required to make out a conditions-of-confinement claim. Because routine discomfort is part of the penalty that criminal offenders pay for their offenses against society, only those deprivations denying the minimal civilized measure of life's necessities are sufficiently grave to form the basis of an Eighth Amendment violation." Hudson v. McMillian, 503 U.S. 1, 9 (1992)(internal quotations omitted).

a. Food

In keeping with this principle "[i]n the context of an inmate's diet, the Eighth Amendment requires only that inmates be provided food that is adequate to maintain health, and served in a sanitary manner, not that food be appetizing." Maldonado v. McFaden, 1994 U.S. Dist. LEXIS 16837 at *11 (E.D. Pa. Nov. 23, 1994); see also Collins v. Klotz, 1994 U.S. Dist. LEXIS 8980 at *13-*14 (E.D. Pa. July 1, 1994). Other Judges of this Court have found that the replacement of an inmate's diet with a food loaf that was nutritionally similar or identical to the inmate's regular diet did not violate the Eighth Amendment. Maldonado, 1994 U.S. Dist. LEXIS 16837 at *12-14; Collins, 1994 U.S. Dist. LEXIS 8980 at *4 n. 3, *14. In Maldonado, 1994 U.S. Dist. LEXIS 16837 at *14, the court held that "[a] temporary food loaf diet that fully comports with the nutritional and caloric requirements

of [an inmate's] specific dietary needs does not constitute an extreme deprivation denying the minimal civilized measure of life's necessities. [The inmate's] distaste for the unappetizing food loaf diet, while understandable, is not, by itself, constitutionally actionable."

b. Triple-Celling

"[T]he Constitution does not mandate comfortable prisons." Rhodes v. Chapman, 452 U.S. 337, 349 (1981). Courts addressing double and triple-celling of inmates have analyzed whether such conduct violates the Eighth Amendment under a totality of the circumstances test. Id.; Nami, 82 F.3d at 67; Tillery v. Owens, 907 F.2d 418, 426 (3d Cir. 1990). Depending upon the circumstances, double and triple-celling may or may not violate the Eighth Amendment.

In Rhodes, 452 U.S. at 347-48, the Supreme Court of the United States reversed the lower courts' decisions made after extensive findings of fact, and found that double-celling did not violate the Eighth Amendment. In that case, two inmates were placed on bunk beds in a single cell. Id. at 341. The Court explained that:

> [t]he double celling made necessary by the unanticipated increase in prison population did not lead to deprivations of essential food, medical care, or sanitation. Nor did it increase violence among inmates or create other conditions intolerable for prison confinement. . . . [T]here is no evidence that double celling under these circumstances

> either inflicts unnecessary or wanton pain or is grossly disproportionate to the severity of crimes warranting imprisonment.

Id. at 348.

In Nami, 82 F.3d at 69, the United States Court of Appeals for the Third Circuit reversed the district court's granting of the defendants' motion to dismiss the plaintiffs' Eighth Amendment claim. In that case, inmates were double-celled, such that one had to sleep on the floor by the toilet. Id. at 65-66. The cells were small, and had very small windows, so that it was difficult to summon help, resulting in rapes, assaults and psychological stress. Id. at 66. The plaintiffs spent the vast majority of their time in the cells, and were deterred from visiting doctors. Id. The Court held that:

> [w]hile Rhodes may stand for the proposition that double celling does not per se amount to an Eighth Amendment violation, it does not stand for the proposition that double celling can never amount to an Eighth Amendment violation. . . . [I]t is implicit in Rhodes that double celling can amount to an Eighth Amendment violation if combined with other adverse conditions. . . . It cannot be wholly determined from the record whether in this case prison officials actually displayed deliberate indifference.

Id. at 66-67.

In Tillery, 907 F.2d at 428, after an extensive factual description of the conditions at the prison, the court concluded that the evidence supported the district court's factual findings, and provided an adequate basis to support the district court's conclusion that the double-celling at the prison violated

the Eighth Amendment. The court described the factors relevant to the analysis, which included:

> the length of confinement, the amount of time prisoners must spend in their cells each day, the opportunities for activities outside the cells, . . . the repair and functioning of basic physical facilities such as plumbing, ventilation and showers. . . . food, medical care, sanitation, control of vermin, lighting, heating, ventilation, noise level, bedding, furniture, education and rehabilitation programs, safety and security and staffing.

Id. at 427. In that case, the district court had held a six-week trial and toured the prison. Id. at 420. Double-celled inmates slept on bunk beds, and the other conditions at the prison included overcrowded spaces in which the inmates spent the vast majority of their time, bad lighting, rampant assault due to understaffing, little to no cleaning, a major vermin problem, inadequate plumbing, unsanitary and unsupervised showers, inadequate fire safety, and deficient medical and psychiatric treatment. Id. at 422-24.

In Union County Jail Inmates v. DiBuono, 713 F.2d 984, 996 (3d Cir. 1983), the United States Court of Appeals for the Third Circuit described the "practice of forcing [pre-trial] detainees to sleep on mattresses placed . . . on the floor adjacent to the toilet and at the feet of their cellmates" as "unsanitary and humiliating." The Court noted that providing bunk beds in double-celling situations would avoid this practice. Id.

In Liles v. Camden County Dep't of Corrections, 225 F.

Supp. 2d 450, 462 (D.N.J. 2002), the court denied the defendants' motion for summary judgment on the allegation that fighting broke out when inmates were splashed with urine as they slept on the floors of their cells next to the toilets.

B. Application to Hinterlong's Claims

Several of the defendants are never mentioned in any of the documents filed by the plaintiff. Therefore, the plaintiff has failed to allege their personal involvement and the claims against them must be dismissed. These defendants are Frank Green, Robert M. DiOrio, Chad McCullough and C/O White.

Hinterlong mentions several other defendants in the complaint, but fails to allege their personal involvement in any wrongdoing. First, the only mention of Carrissa Tillotson is that Hinterlong wrote her a request for information, and she did not respond. Hinterlong does not explain how this in any way constituted a constitutional violation. The claims against Tillotson are dismissed.

The only mention of Lt. Kendall in any of the plaintiff's documents is that at Hinterlong's hearing, Abt told Hinterlong that Haggans and Kendall had found the missing pills based on a statement made by Hinterlong. The recovery of missing pills does not relate to Hinterlong's civil rights and, although Hinterlong denies having made the statement, he does not allege

that Kendall fabricated it or did anything improper. The claims against Kendall are dismissed.

Hinterlong claims that C/O Meyers was present and aware of the situation on October 8, 2005, when Hinterlong received a liquid tray and Rosado was informed and returned this tray to the kitchen. This incident relates to the remedying of the situation about which Hinterlong complains, not the violation of his civil rights. In addition, Meyers' presence alone does not form the basis for liability. The claims against Meyers are dismissed.

By Hinterlong's own allegations, Lt. Rosado appears to have gone out of his way to help Hinterlong, and to get his diet change remedied. He personally checked Hinterlong's chart to see whether the change had been authorized, and when Hinterlong received the liquid food tray again, he personally returned it to the kitchen. (Compl. at p. 14-15). The only allegation against Lt. Raymond in any of Hinterlong's documents is that he also checked Hinterlong's chart. (2/17/06 Pl. Resp. at p. 3). Hinterlong states that Rosado and Raymond are defendants because they "knew of the situation." Id. According to Hinterlong's own allegations, Rosado and Raymond did not violate any of Hinterlong's rights; rather, they acted solely as advocates for him. The claims against Rosado and Raymond are dismissed.

The claim against Sgt. Abt must be dismissed, because the only allegations against her are that she conducted

Hinterlong's hearing. Because a state's creation of a prison disciplinary procedure does not give rise to any federal constitutional rights, Hinterlong's claims based upon the inadequacies of this procedure must fail. The claims against Sgt. Abt, and all claims relating to the prison disciplinary proceedings, are dismissed.

The motion to dismiss the claims relating to Hinterlong's diet is denied. Without a factual record, the Court cannot determine whether the diet was nutritionally adequate for Hinterlong. The defendants alleged to have caused the liquid diet to be imposed or to have known of its improper imposition and acquiesced to it are George W. Hill, Ronald Nardolillo, Matthew Holm, Lauren Kroger, Ralph Smith, Terry Smith, Shelly Mealo, Sharon McGeehan, Beverly Parkinson and Lt. Haggans.[5] The claims against these defendants relating to the diet may go forward, and the motion to dismiss these claims is denied.

In addition, claims relating to the triple-celling survive the motion to dismiss. Although the conditions alleged by Hinterlong are less severe than in some other cases, he does

[5] Some of these defendants are alleged only to have failed to respond to grievances relating to the liquid diet, and prisoners do not have federal constitutional rights relating to prison grievance procedures. The Court will not dismiss these defendants at this time, however, because, in the context of a potential Eighth Amendment violation, the failure to respond to a grievance may have constituted knowledge and acquiescence, rising to deliberate indifference.

allege that he was forced to sleep on a mattress on the floor, and that urine was splashed on him, resulting in fighting. Taking these aggravating factors into account, the Court cannot conclude that Hinterlong's Eighth Amendment claims based on triple-celling fail as a matter of law at this early stage. It is not clear which of the remaining defendants were involved with the triple-celling. The claim may be solely against Holm, but should it appear that any of the other remaining defendants were involved during the course of discovery, the claim may proceed against them as well.

IN THE UNITED STATES DISTRICT COURT
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v.	:	
	:	
GEORGE W. HILL,	:	
SUPERINTENDENT, et al.	:	NO. 05-5514

ORDER

AND NOW, this 8th day of August, 2006, upon consideration of the Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to F.R.C.P. 12(b)(6) (Docket No. 31), and the responses and replies thereto, IT IS HEREBY ORDERED that the motion is GRANTED IN PART and DENIED IN PART as follows:

1. The following defendants are dismissed from the case: Frank Green, Robert M. DiOrio, Chad McCullough, C/O White, Carrissa Tillotson, Lt. Kendall, C/O Meyers, Lt. Rosado, Lt. Raymond, and Sgt. Abt.

2. All claims relating to the adequacy of the prison disciplinary proceedings are dismissed.

3. The motion to dismiss is denied with respect to the claims relating to the liquid diet and the triple-celling. George W. Hill, Ronald Nardolillo, Matthew Holm, Lauren Kroger, Ralph Smith, Terry Smith, Shelly Mealo, Sharon McGeehan, Beverly Parkinson and Lt. Haggans remain defendants in the case only with

respect to the remaining claims.

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.